

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15903 of Craig A. Morgan, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing nonconforming structure that now exceeds the allowable lot occupancy requirements and does not meet the minimum rear yard requirements, and will increase the nonconformities [Paragraph 2001.3(a), (b) and (c)], a variance from the allowable lot occupancy requirements (Subsection 403.2), and a variance from the rear yard requirements (Subsection 404.1) to allow a deck addition in an R-4 District at premises No. 18 14th Street, N.W. (Square 1035, Lot 100).

HEARING DATE; January 26, 1994
DECISION DATE: February 2, 1994

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located at No. 18 14th Street, N.E., on the west side of the street between East Capitol and A Streets, N.E. The site is zoned R-4.

2. The site comprises 1,024 square feet of land area and is improved with a two-story brick row dwelling. The site abuts a 20-foot wide public alley to the rear (west) and other rowhouses to the north and south. The lot is 16 feet wide and 64 feet deep and is similar to the adjacent lots to the north and south.

3. The existing structure was constructed in 1915 and was rendered nonconforming with the enactment of the current Zoning Regulations in 1958. The applicant acquired the property in 1992 and has been residing at the premises since then. The applicant now is proposing to continue the use of an existing wooden deck at the rear of the two-story structure.

4. The site is located in an R-4 District which permits matter of right development of residential uses including detached semi-detached, row, single-family, dwellings and flats with a minimum lot width of 18 feet, a minimum lot area of 1,800 square feet, and a maximum height of three stories/40 feet. A minimum rear yard depth of 20 feet is required in the R-4 District.

5. The deck comprises approximately 300 square feet of surface area. It is located approximately 12 feet above ground level at the second floor level of the existing dwelling.

6. The applicant testified that the deck was constructed prior to his acquisition of the property. He stated that he was not aware that the deck was not in compliance with the Zoning Regulations until one day he found a stop work order posted on the house. The applicant also stated that he has no knowledge of when the deck was constructed. Based on information obtained from neighbors, he believes that it has been in existence for four or five years. There is no record of a building permit being issued for the deck.

7. The applicant further testified that in his opinion the intent of the rear yard set back requirements is not compromised. He explained that because of the fact that it is a deck addition and not an enclosed solid structure, it does allow light and air to pass and filter into the backyard as well as to adjacent properties. The applicant believes that the level of privacy enjoyed by the neighbors is not affected by the existence of the deck. The applicant also testified that the neighbors on both sides of his property, as well as, Advisory Neighborhood Commission 6B support his application for the existing deck addition to remain.

8. By report dated January 19, 1994, and through testimony at the public hearing, the Office of Planning (OP) recommended denial of the application. The OP stated that notwithstanding the fact that the applicant was unaware at the time he purchased the house that the deck had been built without a permit, there is no practical difficulty inherent in the property that would justify the area variances requested. In the opinion of the Office of Planning, the addition is inconsistent with the character of the area and has a negative impact on the privacy of adjacent properties as well as on other properties in the immediate neighborhood. The OP further stated that the deck addition increases the lot occupancy, requiring a variance of 98 percent and a rear yard depth variance of 100 percent. As such, the addition substantially impairs the intent and purpose of the R-4 District regulations.

9. By a letter dated January 12, 1994, the Advisory Neighborhood Commission (ANC) 6B stated that it has voted to support the application. The ANC was not represented at the hearing.

10. No one appeared at the hearing to testify either in support or in opposition to the application.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. The site is similar in size, shape and topographical characteristics to other properties in the area. The existing structure is also similar in size to other structures in the area.
2. The deck eliminates the property's rear yard and decreases the open space, air and light of the property. It also reduces the level of privacy enjoyed by the abutting neighbors. The requested variances are excessive for the R-4 District in which the subject site is located.
3. The Board considers the application as if the deck does not exist and as such the applicant has to meet the burden of proof relative to the zoning relief being sought in this case.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence of record, the Board concludes that the applicant is seeking variances from the allowable percentage of lot occupancy requirements, the rear requirements and a variance to allow an addition to an existing nonconforming structure that now exceeds the allowable lot occupancy requirements and does not meet the minimum rear yard requirements, and will increase nonconformities to allow a deck addition in an R-4 District.

Granting such variances, requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as, exceptional narrowness, shallowness, shape or topographical condition. In addition, the Board must find that granting the application, will not be of substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan.

The Board concludes that the applicant has not met his burden of proof. The Board is of the opinion that there is no inherent uniqueness in the property that would justify the requested variances which in each instance exceeds the zoning requirements by 98 to 100 percent. The Board believes that the zoning relief sought in this case would be excessive and would impair the intent, purpose and integrity of the zone plan for the R-4 District.

The Board has accorded ANC 6B the "great weight" to which it is entitled.

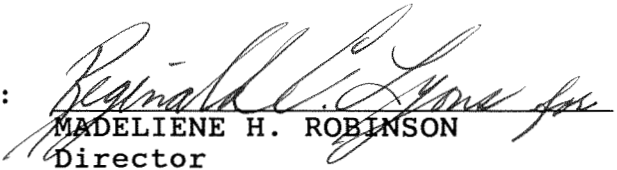
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In accordance with the above analysis, the Board **ORDERS** that this application is hereby **DENIED**.

VOTE: 5-0 (John G. Parsons, Craig Ellis, George Evans and Angel F. Clarens to deny; Laura M. Richards to deny by absentee vote).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: OCT 6 1995

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT




BZA APPLICATION NO. 15903

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on OCT 6 1995 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Craig A. Morgan
No. 18 14th Street, N.E.
Washington, D.C. 20002

Peter J. Waldron, Chairperson
Advisory Neighborhood Commission 6B
921 Pennsylvania Avenue, S.E., #108
Washington, D.C. 20003


MADELIENE H. ROBINSON
Director

Date: OCT 6 1995